

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL DAUWALDER,

Plaintiff,

v.

DANIEL MOELLER, et al.,

Defendants.

No. 1:25-cv-00665-SAB (PC)

ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED

(ECF No. 8)

On June 3, 2025, Plaintiff filed the instant action pro se pursuant to 42 U.S.C. § 1983.

On June 5, 2025, then-assigned Magistrate Judge Gary A. Austin issued an order reassigning this case because the civil rights complaint challenges his release from custody-cases of which he does not handle. (ECF No. 4.) It was specifically determined that “in order for Plaintiff to obtain release from custody earlier than his new projected September 2025 date, he must seek relief under 28 U.S.C. § 2254, the habeas statute after first exhausting his state court remedies. See Correa v. Shaffer, No. 2:23-cv-00739 TLN KJN P, 2023 WL 8850557, at *8 (E.D. Cal. Dec. 21, 2023), report and recommendation adopted, No. 2:23-cv-00739 TLN KJN P, 2024 WL 774924 (E.D. Cal. Feb. 26, 2024) (stating same).” (Id. at 3.)

On June 6, 2025, the Court directed Plaintiff to file a written response indicating whether he wishes (1) the Court to convert this § 1983 civil rights action into one filed under 28 U.S.C. §

1 2254; or (2) for the Court to dismiss this complaint, without prejudice. (ECF No. 5.)

2 On June 20, 2015, Plaintiff filed a response stating that he is “seeking leave to amend my
3 complaint and delete the ‘Request for Immediate Release’ and Replace it with “seeking action of
4 invalidation of state procedure to deny parole eligibility...and parole suitability.” (ECF No. 7.)
5 Plaintiff requests the Court send him a blank section 1983 complaint and notes that he has sent
6 the filing fee. (Id.)

7 On June 23, 2025, the Court send Plaintiff a blank civil rights complaint form and granted
8 Plaintiff thirty days to complete and submit a civil rights complaint form in order for this action to
9 proceed. (ECF No. 8.) Plaintiff has failed to comply with the Court’s order and the time to do so
10 has passed. Accordingly, it is HEREBY ORDERED that within **fourteen (14) days** Plaintiff
11 shall show cause why this action should not be dismissed, without prejudice, for failure to
12 prosecute and failure to comply with a court order. Plaintiff’s failure to comply with this order
13 will result in a recommendation to dismiss the action for the reasons stated above.

14 IT IS SO ORDERED.

15 Dated: August 5, 2025



16 STANLEY A. BOONE
17 United States Magistrate Judge

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